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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**F I N A L M I N U T E S**

MEETING OF:

**STATE BOARD OF OPTOMETRY**

TIME: 10:58 A.M.

Held at

**PENNSYLVANIA DEPARTMENT OF STATE**

2601 North Third Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

**VIA MICROSOFT TEAMS**

Thursday, December 1, 2022



1 \*\*\*

2 State Board of Optometry

3 December 1, 2022

4 \*\*\*

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,  
6 at 10:00 a.m. the Board entered into Executive  
7 Session with Shawn J. Jayman, Esquire, Board Counsel,  
8 for the purpose of conducting quasi-judicial  
9 deliberations and to receive the advice of Board  
10 Counsel. The Board returned to open session at 10:30  
11 a.m.]

12 \*\*\*

13 The regularly scheduled meeting of the State  
14 Board of Optometry was held on Thursday, December 1,  
15 2022. Luanne K. Chubb, O.D., F.A.A.O., Chairperson,  
16 called the meeting to order at 10:58 a.m.

17 \*\*\*

18 Roll Call

19 [Chairperson Chubb requested Ms. McNeill take a roll  
20 call of Board members.]

21 \*\*\*

22 Introduction of Audience

23 [Chairperson Chubb requested the introduction of  
24 audience members. She welcomed Shawn Jayman as new  
25 Board Counsel and new Board member, Marc Berson.]

1 \*\*\*

2 [Shawn J. Jayman, Esquire, Board Counsel, informed  
3 everyone that the meeting was being recorded, and  
4 those who continued to participate were giving their  
5 consent to be recorded.

6 Mr. Jayman also noted the Board entered into  
7 Executive Session for the purpose of conducting  
8 quasi-judicial deliberations on a number of matters  
9 currently pending before the Board and to receive the  
10 advice of counsel.]

11 \*\*\*

12 Approval of Minutes

13 CHAIRPERSON CHUBB:

14 At this time, we want to approve the  
15 minutes. Everyone has had plenty of  
16 time to review the minutes and read  
17 them.

18 Do I have a motion to approve the  
19 minutes?

20 DR. BECKER:

21 So moved.

22 DR. WILCOX:

23 Second.

24 MS. MCNEILL:

25 Dr. Chubb, yes; Claggett, aye; Dr.

1                   Wilcox, aye; Dr. Godfrey, aye; Tyler  
2                   Ritchie, aye; Dr. Becker, aye; Dr.  
3                   Umlauf, abstain; Dr. Berson, abstain.

4 CHAIRPERSON CHUBB:

5                   Any opposed? We have two abstentions.  
6                   Motion carries.

7 [The motion carried. Perry Umlauf and Marc Berson  
8 abstained from voting on the motion.]

9   \*\*\*

10 Amendment to Agenda

11 MR. JAYMAN:

12                   Based on Executive Session  
13                   deliberations, I believe the Chair  
14                   would entertain a motion to add to the  
15                   agenda to reflect that regulatory items  
16                   on the additional agenda will be added  
17                   to the agenda for the purpose of this  
18                   meeting.

19 DR. BECKER:

20                   So moved.

21 DR. WILCOX:

22                   Second.

23 MS. MCNEILL:

24                   Dr. Chubb, aye; Claggett, aye; Dr.  
25                   Wilcox, aye; Dr. Godfrey, aye; Tyler



1           Mr. Jarabeck addressed civil penalties,  
2 reprimands, and a combination of those, noting the  
3 importance of looking at whether the behavior pushes  
4 it to the point where it would be a reprimand beyond  
5 just paying a fine versus saying the act was rose to  
6 a level where the receipt of a reprimand would be in  
7 their permanent history.

8           Mr. Jarabeck commented that probation had  
9 previously been the line of demarcation, where  
10 insurance companies may treat someone differently if  
11 they were on probation. He noted that changed  
12 overtime and civil penalties are now reported in the  
13 National Practitioner Data Bank, and the decision  
14 would be made by the insurance company whether that  
15 affects the individual or not.

16           Mr. Jarabeck stated a reprimand was a murky area  
17 in the past and now everything is reported. He noted  
18 prosecution is also looking at it through the lens of  
19 their practices with other boards in similar  
20 situations and whether it rise beyond the level of  
21 just civil penalty or just costs.

22           Mr. Jarabeck addressed whether a civil penalty  
23 has to be tied to a reprimand or whether they could  
24 be separate entities. He commented that prosecutors  
25 are advocates and put cases forward to the boards.

1 He explained that other boards have just a reprimand  
2 and no civil penalty.

3 Mr. Jarabeck mentioned there have been cases  
4 where somebody would not have the money and the board  
5 would recommend a reprimand and then other cases from  
6 prosecution's perspective, where a reprimand may not  
7 recommend a reprimand because it believed the person  
8 would learn by paying the money in a civil penalty  
9 but not put the individual into some level of an  
10 insurance issue.

11 Mr. Jarabeck commented that prosecution tries to  
12 come up with an equitable solution that rehabilitates  
13 the practitioner but at the same time acceptable to  
14 the board.

15 Mr. Jarabeck informed Board members that a civil  
16 penalty remains permanent and even costs would be  
17 something subject to review. He noted the ability  
18 for lower-level actions, including citations, to be  
19 removed through amendments but not matters pertaining  
20 to professional responsibility or professional  
21 ethics.

22 Dr. Wilcox asked how many of the 12 to 15  
23 findings between 2011 and 2021 had a public  
24 reprimand.

25 Mr. Jarabeck stated no public reprimands were

1 issued during that time. He mentioned taking out the  
2 licenses reinstated or licenses granted that there  
3 have been instances of mandatory continuing  
4 education, suspension, suspension stayed in favor of  
5 probation, and most of the time mandatory continuing  
6 education also in conjunction with a fine.

7 Chairperson Chubb addressed recommendations from  
8 prosecution, where their understanding in the past  
9 has been to accept all or rejected all and requested  
10 information regarding the next steps after something  
11 has been rejected. She also asked whether the Board  
12 would be able to unbundle a fine and a reprimand and  
13 agree to the fine but not the reprimand.

14 Mr. Jarabeck explained that the Board cannot give  
15 prosecution direction of what would happen in the  
16 presentation of a consent agreement. He noted it  
17 would be stated as too harsh or too lenient with the  
18 occasional not acceptable by the facts presented and  
19 remains in the purview of the Board in making that  
20 decision.

21 Mr. Jarabeck stated prosecution engages experts  
22 on matters of professional conduct meeting the  
23 standard of care because prosecution does not have  
24 that ability. He addressed steps taken by  
25 prosecution after a consent agreement is rejected for

1 being too harsh. He explained that the steps depend  
2 on what was put forward and whether a middle ground  
3 could be found, which would ultimately go back  
4 through the negotiation process with opposing counsel  
5 or with the respondent as well as prosecution. He  
6 stated that boards sometimes find they are at the  
7 bottom and the case is too harsh, where the case  
8 would not be prosecuted and may result in the closure  
9 of the file and withdrawal of charges.]

10 \*\*\*

11 Report of Acting Commissioner  
12 [Arion R. Claggett, Acting Commissioner, Bureau of  
13 Professional and Occupational Affairs, addressed the  
14 Pennsylvania Licensing System (PALS), noting many  
15 licensees were not able to renew their license  
16 because the system was down. He stated an email  
17 would be sent to anyone who was impacted providing  
18 notification of an extension and the deadline for the  
19 renewal. He noted that all of the licensees who did  
20 not renew have an active license.

21 Acting Commissioner Claggett informed Board  
22 members that the 30-day grace period was taken away  
23 in 2019 because it slows down PALS for everyone when  
24 many renewals are open at the same time. He  
25 mentioned that there is an internal grace period of

1 7-days to take care of people who renew on the last  
2 day.]

3 \*\*\*

4 Report of Board Counsel

5 MR. JAYMAN:

6 Based on Executive Session  
7 deliberations, I believe the Chair  
8 would entertain a motion to direct  
9 Board Counsel to draft an Adjudication  
10 and Order consistent with discussions  
11 in Executive Session in the matter of  
12 Man Tri Vu, Case No. 18-52-010885.

13 DR. GODFREY:

14 So moved.

15 DR. WILCOX:

16 Second.

17 MS. MCNEILL:

18 Dr. Chubb, aye; Commissioner Claggett,  
19 aye; Dr. Wilcox, aye; Dr. Godfrey, aye;  
20 Tyler Ritchie, aye; Dr. Becker, aye;  
21 Dr. Umlauf, aye; Dr. Berson, abstain.

22 CHAIRPERSON CHUBB:

23 Any objections? A single abstention.

24 Motion carries.

25 [The motion carried. Dr. Berson abstained from

1 voting on the motion.]

2

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3 Report of Board Chair

4 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson,  
5 addressed the Association of Regulatory Boards of  
6 Optometry (ARBO) and the Council on Optometric  
7 Practitioner Education (COPE). She noted COPE had a  
8 wider variety of categories in the past because they  
9 assessed their member boards and streamlined  
10 categories for continuing education. She commented  
11 that it made little impact for Pennsylvania but had a  
12 great impact on other states. She noted sending the  
13 COPE-approved information to Board members and the  
14 need to post it on the public site.

15 Chairperson Chubb addressed another announcement  
16 that may have an impact on Pennsylvania regarding  
17 synchronous and asynchronous continuing education.  
18 She discussed what COPE and ARBO consider to be  
19 asynchronous.

20 Chairperson Chubb stated the Board of Optometry  
21 has the Probable Cause Screening Committee,  
22 Regulatory Committee, Continuing Education Committee,  
23 Act 41 Committee, and Pharmaceutical Committee. She  
24 noted the committees are going to stay the same for  
25 this meeting but members need to decide which

1 committee they wished to be a member of at the  
2 February meeting.

3 Dr. Becker requested more information concerning  
4 synchronous education and asked whether it is going  
5 to be considered by the Board as live with the new  
6 renewal period.

7 Chairperson Chubb explained that synchronous to  
8 ARBO is considered to be in person or in person via a  
9 webinar, where someone could interact with the  
10 presenter but not a journal article or a webinar,  
11 where someone is listening and takes a test  
12 afterwards. She further explained it has to be a  
13 live presentation and not prerecorded.

14 Chairperson Chubb commented that the decision was  
15 just released by ARBO within the past 45 days. She  
16 noted the Board currently can have 15 live credits  
17 but has not defined what live means. She stated  
18 there was never an alternative other than live in  
19 person and that would require further Board  
20 discussion.

21 Acting Commissioner Claggett suggested Mr. Jayman  
22 do some research and provide some definitive answers  
23 for the next Board meeting.]

24 \*\*\*

25 Report of Regulatory Counsel

1 [Shawn J. Jayman, Esquire, Board Counsel, noted the  
2 Board voted on the amendment to the agenda bringing  
3 forward issues regarding licensure by endorsement  
4 under 16A-5218, along with the final annex and final  
5 preamble. He noted 16A-5218 was reviewed and  
6 approved on May 9, 2022.

7 Mr. Jayman noted there were specific factors  
8 listed at the May 9, 2022 meeting regarding  
9 discipline but appears the factors are driven by case  
10 law. He stated the Board needed to decide whether to  
11 keep the factors in or not.

12 Mr. Jayman also referred to § 23.27b(b)(1). He  
13 stated in the interest of public safety, the Board  
14 has determined that providing some discretion is  
15 necessary for the granting of a provisional license  
16 for less than a year. He noted the way it was  
17 approved was for one year and this change is for  
18 situations for granting a provisional license for  
19 less than one year.

20 Mr. Jayman noted an example would be where an  
21 applicant from another jurisdiction only needs to  
22 complete 10 more continuing education and to allow 12  
23 months to establish competency would not be in the  
24 best interest of public safety and that is why the  
25 language has been added back into the proposed

1 regulation.]

2 MR. JAYMAN:

3 I believe the Chair would entertain a  
4 motion to approve the new language of  
5 the final regulation and direct Board  
6 Counsel to move the final-form  
7 rulemaking through the regulatory  
8 process.

9 DR. GODFREY:

10 So moved.

11 DR. WILCOX:

12 Second.

13 CHAIRPERSON CHUBB:

14 Roll call vote.

15

16 Dr. Chubb, aye; Dr. Wilcox, aye; Dr.  
17 Godfrey, aye; Tyler Ritchie, aye; Dr.  
18 Becker, aye; Dr. Umlauf, aye; Dr.  
19 Berson, aye; Commissioner Claggett,  
20 abstain.

21

22 Any opposed? One abstention. Motion  
23 carries.

24 [The motion carried. Arion Claggett abstained from  
25 voting on the motion.]

1 \*\*\*

2 Report of Board Administrator

3 [Sarah E. McNeill, Board Administrator, introduced  
4 Shakeena Chappelle as the new Board Administrator.]

5 \*\*\*

6 New Business

7 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson,  
8 addressed new glaucoma medication, omidenepag

9 isopropyl ophthalmic solution, noting it to be a  
10 once-a-day glaucoma medication and is a prostaglandin  
11 E2 receptor agonist for glaucoma and ocular  
12 hypertension.]

13 CHAIRPERSON CHUBB:

14 I would like to have a vote to add this  
15 to our drug formulary.

16 DR. GODFREY:

17 I move to approve the aforementioned  
18 drug.

19 DR. WILCOX:

20 Second.

21 CHAIRPERSON CHUBB:

22 Any discussion? Hearing none. Roll  
23 call vote.

24  
25 Dr. Chubb, aye; Commissioner Claggett,

1 aye; Dr. Wilcox, aye; Dr. Godfrey, aye;  
2 Tyler Ritchie, aye; Dr. Becker, aye;  
3 Dr. Umlauf, aye; Dr. Berson, aye.

4  
5 Any opposed? Any abstentions? Hearing  
6 none. Motion carries.

7 [The motion carried unanimously.]

8 \*\*\*

9 New Business - 2024 Proposed Meeting Dates

10 CHAIRPERSON CHUBB:

11 The proposed meeting dates for 2024 are  
12 February 1, May 9, August 8, and  
13 December 19.

14 Do we have a motion to approve  
15 those meeting dates?

16 DR. GODFREY:

17 So moved.

18 DR. WILCOX:

19 Second.

20 CHAIRPERSON CHUBB:

21 Roll call vote.

22  
23 Dr. Chubb, aye; Commissioner Claggett,  
24 aye; Dr. Wilcox, aye; Dr. Godfrey, aye;  
25 Tyler Ritchie, aye; Dr. Becker, aye;

1 Dr. Umlauf, aye; Dr. Berson, aye.

2

3 Any opposed? Any abstentions? Motion  
4 carries.

5 [The motion carried unanimously.]

6

\*\*\*

7 New Business - Election of Officers

8 CHAIRPERSON CHUBB:

9 Is there a motion for Board Chair?

10 DR. BECKER:

11 I move that we nominate Dr. Luanne  
12 Chubb as Board Chair.

13 DR. UMLAUF:

14 Second.

15 CHAIRPERSON CHUBB:

16 Any other? Motion for approval?

17 DR. GODFREY:

18 So moved.

19 DR. WILCOX:

20 Second.

21 MS. MCNEILL:

22 Commissioner Claggett, aye; Dr. Wilcox,  
23 aye; Dr. Godfrey, aye; Tyler Ritchie,  
24 aye; Dr. Becker, aye; Dr. Umlauf, aye;  
25 Dr. Berson, aye.

1 CHAIRPERSON CHUBB:

2                   Any opposed? Any abstentions? Motion  
3                   carries.

4 [The motion carried unanimously.]

5   \*\*\*

6 CHAIRPERSON CHUBB:

7                   For position of Vice Chair?

8 DR. WILCOX:

9                   I nominate Dr. Godfrey for Vice Chair.

10 DR. UMLAUF:

11                   Second.

12 CHAIRPERSON CHUBB:

13                   Roll Call vote.

14

15                   Dr. Chubb, aye; Commissioner Claggett,  
16                   aye; Dr. Wilcox, aye; Tyler Ritchie,  
17                   aye; Dr. Becker, aye; Dr. Umlauf, aye;  
18                   Dr. Berson, aye.

19

20                   Any opposed? Any abstentions? Motion  
21                   carries.

22 [The motion carried unanimously.]

23   \*\*\*

24 CHAIRPERSON CHUBB:

25                   For position of Board secretary?

1 DR. GODFREY:

2 I'd like to nominate Dr. Denise Wilcox.

3 DR. UMLAUF:

4 Second.

5 CHAIRPERSON CHUBB:

6 Roll Call vote.

7

8 Dr. Chubb, aye; Commissioner Claggett,  
9 aye; Dr. Godfrey, aye; Tyler Ritchie,  
10 aye; Dr. Becker, aye; Dr. Umlauf, aye;  
11 Dr. Berson, aye.

12 Any opposed? Any abstentions? Motion  
13 carries.

14 [The motion carried unanimously.]

15 \*\*\*

16 Adjournment

17 CHAIRPERSON CHUBB:

18 Do we have a motion to adjourn?

19 DR. GODFREY:

20 So moved.

21 DR. UMLAUF:

22 Second.

23 \*\*\*

24 [There being no further business, the State Board of  
25 Optometry Meeting adjourned at 11:46 a.m.]

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CERTIFICATE

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I hereby certify that the foregoing summary minutes of the State Board of Optometry meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Optometry meeting.



Cory Ruda,  
Minute Clerk  
Sargent's Court Reporting  
Service, Inc.

STATE BOARD OF OPTOMETRY  
REFERENCE INDEX

December 1, 2022

	TIME	AGENDA
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8		
9	10:00	Executive Session
10	10:30	Return to Open Session
11		
12	10:58	Official Call to Order
13		
14	10:59	Roll Call/Introduction of Audience
15		
16	11:00	Approval of Minutes
17		
18	11:00	Amendment to Agenda
19		
20	11:01	Report of Board Prosecutors
21		
22	11:18	Report of Acting Commissioner
23		
24	11:23	Report of Board Counsel
25		
26	11:25	Report of Board Chair
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28	11:35	Report of Regulatory Counsel
29		
30	11:39	Report of Board Administrator
31		
32	11:40	New Business
33		
34	11:37	Miscellaneous
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36	11:46	Adjournment
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